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Yaron Reich

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12/09/2008

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

12/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 33-65 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
 - a. Original claims 1-15, and 22-32 are directed towards delivering a weather-related advertisement to an individual by selecting the weather-related advertisement according to weather information about expected weather conditions. The weather conditions are related to a geographically confined area and a defined period of time. After selection, the weather-related advertisement is delivered to the individual. The system claim includes a weather server that provides a weather related parameter and an advertising rule engine that performs the selection of the weather related advertisement at least partially according to the weather related parameter and a server that delivers the advertisement to the individuals electronic device.
 - b. Newly submitted claims 33-53 are directed towards a distinct invention which determines a nowcast for an individual. According to the applicants specification a nowcast is a specific method of providing weather-related information to an individual and disclosed in WO 2002/049310. The determined nowcast is then sent to a rule engine. Then user information and advertiser information is provided to said rule engine. Based upon a rule in the rule engine a weather based advertisement is abstracted and then delivered to the individual. The newly submitted claims are distinct from the claims originally presented

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because it incorporates steps and features that were not disclosed in the original claims. The determination of a nowcast and providing the nowcast to a rules engine is different from the originally claimed providing of a weather related parameter to a rule engine. The newly claimed abstracting a weather based advertisement indicates a different functionality that the originally claimed selecting a weather-related advertisement. Abstracting relates to creating a representation of the salient features of an information element or summarizing features of an information element, whereas selecting is merely the choosing of a weather-related advertisement that is already present.

c. Newly submitted claims 54-59 are directed towards a distinct invention because the system discloses a nowcast weather server, an advertising rule engine that determines an advertisement according to the nowcast, a user, and advertiser, and a server that delivers the advertisement to an electronic device. The newly submitted claims are distinct from the claims originally presented because according to the applicants specification a nowcast is a specific method of providing weather-related information to an individual and disclosed in WO 2002/049310 rather than the previously claimed weather server that provides at at least one parameter. The claims are also determining an advertisement by using the advertising rule engine to include three variables (the nowcast, a user, and advertiser). This contrasts to the original claims that required the advertising rule engine to select based on at least one weather related parameter.

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d. Newly submitted claim 60 is directed towards a distinct invention because the system discloses constructing an animation matrix, and creating an advertisement using a story builder.

e. Newly submitted claims 61-65 is directed towards a distinct invention because the method is directed toward creating a weather based demand curve using a learning engine rather than the delivery of weather related advertisements.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-60 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Since all of the originally presented claims have been cancelled and the newly submitted claims are restricted by original presentation there are no currently pending claims to prosecute. As such the amendment is considered non-responsive.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. V./

Examiner, Art Unit 3622

/Eric W. Stamber/

Supervisory Patent Examiner, Art Unit 3622